

C O P Y

Copy

1954

Mar. 17

Mr. Robert F. Chandler, Jr., President  
University of New Hampshire  
Durham, New Hampshire

Dear President Chandler:

Your letter of March 11, 1954 was not received in our office until March 15, 1954; hence our failure sooner to acknowledge its receipt.

In your letter you state that under the provisions of Revised Laws, chapter 222 purchases of stocks and bonds from the Pooled Investment Account of the University must be approved by the Governor and Council before the purchases are made. You point out that the necessity of securing such approval through formal action of the executive body has caused losses to the University through price changes occurring in the interval between action by the Trustees and approval by the Governor and Council. You inquire, then, whether the Governor and Council may designate some state official to act on their behalf in approving prospective purchases. We answer in the negative.

It is assumed that you have in mind section 15 of the chapter cited:

"Investments. The trustees, with the consent and approval of the governor and council, except as is provided in the preceding section, may make such changes from time to time in the investment of the funds of the institution as its interest may, in their judgment, require."

The duty of approval or disapproval set forth in the foregoing section represents a delegation of legislative power to the Governor and Council. The duty entails the exercise of discretion on their part, as distinct from duties involving acts simply administrative in nature. Such duty cannot be further delegated. 42 Am. Jur. Publ. Adm. Law, s. 73. The Governor and Council must themselves, therefore, personally act with respect to the proposals of the Trustees in connection with changes in the investment of the funds of the University.

Very truly yours,

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Warren E. Waters  
Deputy Attorney General

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